assessment which it has no authority to levy. In the latter case, even if the contractor has agreed to look exclusively to the assessment for his pay, the city is liable in assumpsit for the work performed. *Maher* v. *Chicago*, 38 Ill. 266; *Barber Asphalt Paving Co.* v. *Harrisburg*, 64 Fed. Rep. 283; 29 L.R.A. 40; *Louisville* v. *Hyatt*, 5 B. Mon. 200; *Fisher* v. *St. Louis*, 44 Mo. 482; *Scofield* v. *Council Bluffs*, 68 Ia. 695. Also where the municipality has concealed from the contractor facts which would render the assessment unavailing. *Chicago* v. *People*, 56 Ill, 327.

PUBLIC OFFICERS—RIGHT OF DE JURE OFFICER TO COMPENSATION—EFFECT OF PAYMENT TO DE FACTO OFFICER.—Plaintiff and one De Long were rival candidates for the office of county superintendent of schools of defendant county. De Long, having been declared elected by the court of contest, took possession of the office on January 2, 1900, and performed its duties and received the compensation therefor until June 21, 1901, when final judgment in the contest, was rendered in favor of the plaintiff. Plaintiff now sues the county for the emoluments of the office for the time during which it had been filled by De Long. *Held*, that the county, having paid the de facto officer in possession of the office and before the contest was decided, could not be compelled to pay a second time. *Brown* v. *Tama County* (1904), — Iowa —, 98 N. W. Rep, 562.

The question involved in this case has given the American courts a great deal of trouble and the decisions are irreconcilable. The Iowa court adheres to what it believes to be the weight of authority and is without doubt sustained by the greater number of cases. See MECHEM, PUBLIC OFFICERS, Sec. 232, and cases cited. The leading cases on this side are *Auditors* v. *Benoit*, 20 Mich. 176, 4 Am. Rep. 382; *Dolan* v. *Mayor*, 68 N. Y. 274, 23 Am. Rep. 168; and the doctrine has been quite recently reaffirmed in New York in *Demarest* v. *New York*, 147 N. Y. 203, 41 N. E. Rep. 405, and approved in South Dakota and Nebraska, in *Chandler* v. *Hughes County*, 9 S. D. 24, 67 N. W. 946; *State* v. *Milne*, 36 Neb. 301, 19 L. R. A. 689. On the other hand, the opposite view seems to be in accord with the better reason and is supported by numerous authorities, some of which are quite recent. See *Rasmussen* v. *Commissioners*, 8 Wyo. 277, 45 L. R. A. 295, in which the cases are carefully reviewed; *State* v. *Carr*, 129 Ind. 44, 13 L. R. A. 177; *Carroll* v. *Siebenthaler*, 37 Cal. 193; *Philadelphia* v. *Rink*, 2 Atl. Rep. 505; *Andrews* v. *Portland*, 79 Me. 484, 10 Am. St. Rep. 280 and note, in which the editor, Mr. Freeman, reviews the cases and convincingly supports the right of the *de jure* officer to recover from the municipality the salary for his entire term, without regard to the fact that a *de facto* officer has been in possession and has already been paid. The dissenting opinion of JUDGE COOLEY in *Auditors* v. *Benoit*, *supra*, is to the same effect.

PUBLIC RECORDS—PHOTOGRAPHS OF CONVICTS—SURRENDER.—Roland Molineux in 1900 was adjudged guilty of murder in the first degree and sentence of death was pronounced against him. During his imprisonment at Sing Sing and before the granting of a new trial, which resulted in an acquittal, measurements and photographs were taken of him, which were sent to the superintendent of state prisons and placed in the collection which embraced similar data relating to criminals. Upon a motion by Molineux for a peremptory writ of mandamus commanding the superintendent of state prisons to surrender the measurements and photographs to him, *Held*, that he was not entitled to the writ. *In re Molineux* (1904), — N. Y. —, 69 N. E. Rep. 727.